IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 863 of 2005

Between:

Smt.T.Nagalakshmamma W/o.late T.Rami Reddy
Shop No. 14,Women Welfare Cooperative Society, Midthur Village&Mandal,
Kurnool Dist.

..... PETITIONER

AND

1 Revenue Divisional Officer, Kurnool Dist.
2 Mandal Revenue Officer Midthur Mandal,Kurnool dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or direction more particularly one in the nature of writ of Mandamus, declaring the orders passed by the 1st respondent in his proceedings Rc.B.1655/04 dt 27-12-2004 as illegal, arbitrary and violative of principles of natural justice and consequently set-aside the same in the interest of justice.

Counsel for the Petitioner:MR.P.VENGALA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

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ORAL ORDER:

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The petitioner is functioning as a dealer of a Fair Price Shop of Midthur village, Kurnool District. Her authorization was suspended by the 1st respondent through his proceedings dated 27.12.2004. The petitioner also states that she preferred an appeal before the Joint Collector, Kurnool, together with an application for stay and no orders have been passed thereon, so far.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

A perusal of the order dated 27.12.2004 discloses that the authorization of the petitioner was suspended on the basis of a report submitted by the 2nd respondent on 2.12.2004. As many as six allegations were leveled against the petitioner. It is not as if the respondents noticed any grave activities on the part of the petitioner or that any proceedings were initiated against her under the Essential Commodities Act. The 1st respondent can suspend the authorization of a dealer as a measure of

substantive penalty only after following the procedure under Clause 5 (4) of the A.P. State Public Distribution System Control Order, 2001. It is only when suspension is ordered as a measure pending enquiry that a show cause notice need not be issued. In the instant case, the 1st respondent did not indicate that the suspension of the authorization is pending enquiry. The impugned order discloses that it was ordered as a substantive punishment. Further, the 1st respondent proceeded as though the allegations against the petitioner were held proved. There is almost a gap of one month between the report of the 2nd respondent and the order of suspension passed by the 1st respondent. The petitioner could have been issued a show cause notice in the mean while. Therefore, this court finds that the order of suspension is, prima facie, untenable. Hence, it is directed that the same shall remain stayed pending disposal of the appeal preferred by the petitioner. It is, however, left open to the 1st respondent to take further steps in accordance with law, if he so wishes, against the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

1.2.2005

Note: CC in three days.

BO CVM

To,

1 Revenue Divisional Officer, Kurnool Dist.
2 Mandal Revenue Officer Midthur Mandal,Kurnool dist.

3. 2 CCs to G.P. for Civil Supplies, High Court buildings, Hyderabad (OUT).

4. 2 CD copies.